

Message Text

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ACTION NEA-06

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R 140830Z FEB 74

FM AMEMBASSY KABUL

TO SECSTATE WASHDC 6811

UNCLAS KABUL 0937

E.O. 11652: N/A

TAGS: AFSP, OGEN, AF

SUBJ: OFFICIAL WORKWEEK

REF: STATE 18158

1. MANAGEMENT OF STATE, AID, USIS MET WITH BOARD OF KABUL AFSA CHAPTER JANUARY 29. MEETING WAS CORDIAL WITH BUSINESSLIKE GIVE AND TAKE ON ALL ASPECTS OF OFFICIAL WORKWEEK. THANKS TO REFTEL WE WERE FINALLY ABLE TO CLEARLY EXPLAIN THE DIFFERENCE IN APPLICABILITY BETWEEN 5 USC 6101 (A) AND 5 USC 5546(A). A NUMBER OF NEW ASPECTS SURFACED HOWEVER WHICH PROMPTS FOLLOWING OBSERVATIONS AND QUESTIONS.

(A) THREE DAY WEEKEND LAW. WHEN LEGAL HOLIDAY FALLS ON MONDAY (OTHER THAN CHRISTMAS, NEW YEAR AND JULY 4) EMBASSY KABUL CELEBRATES HOLIDAY ON PREVIOUS SATURDAY, THEREBY PROVIDING THREE DAY, FRIDAY-SUNDAY WEEKEND. THIS PRACTICE INITIATED BY AMBASSADOR NEUMANN IN ORDER TO COMPLY WITH THE INTENT OF CONGRESS. WE TREAT SATURDAY AS A LEGAL HOLIDAY AND WE PAY PREMIUM PAY IF WORK IS SCHEDULED FOR SATURDAYS UNDER THIS SYSTEM. QUESTION WAS RAISED WHETHER WE MIGHT BE OBLIGED TO CHANGE PROCEDURE AND PAY PREMIUM PAY FOR THE FIVE MONDAY HOLIDAYS (5 USC 5546(B)) ON WHICH WE SCHEDULE WORK IN ORDER TO HAVE FIVE THREE DAY (CONSECUTIVE) WEEKENDS. WOULD APPRECIATE GUIDANCE THIS POINT.

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(B) IN VIEW OF THE BEGINNING EXCEPTION CLAUSE IN 5 USC 6101(A) WE ASSUME, THAT AMBASSADOR HAS AUTHORITY TO

SCHEDULE FOR EXAMPLE A FORTY HOUR WORKWEEK OF FOUR CONSECUTIVE DAYS OF TEN HOURS EACH. WERE AMBASSADOR TO DO SO WOULD POST BE OBLIGED TO PAY OVERTIME FOR WORK SCHEDULED IN EXCESS OF EIGHT HOURS PER DAY? IT IS OUR OPINION THAT OVERTIME WOULD NOT REPEAT NOT BE REQUIRED FOR FIRST FORTY HOURS UNDER SUCH A SCHEDULE, BUT WE SEEK DEPARTMENT CONCURRENCE.

(C) DOES SECOND SENTENCE IN PARA ONE OF REFTTEL MEAN IT MAY NOT, REPEAT NOT, BE NECESSARY TO APPROACH GAO ON MATTER OF PREMIUM PAY FOR SUNDAY WORK IN FOREIGN AREAS WHERE SUNDAY IS A NORMAL WORKDAY OF RECEIVING STATE BECAUSE LAW MAY INDEED NOT BE APPLICABLE? OR DOES IT MEAN DEPARTMENT MIGHT REQUEST FORMAL GAO RULING ON ISSUE?

(D) WERE THE AMBASSADOR TO SCHEDULE A WORKWEEK CONSISTING OF FOUR HOURS WORK ON SUNDAY AFTERNOON AND NINE HOURS MONDAY

THROUGH THURSDAY WOULD THE FOUR HOURS WORK ON SUNDAY INVOLVE PAYMENT OF MORE THAN 25 PERCENT OF THE BASIC PAY FOR FOUR HOURS ONLY?
OUR READING OF 5 USC 5546(A) IS THAT ONLY FOUR HOURS PAY IS DUE BUT OUR EXPERIENCE WITH THE LANGUAGE OF THIS PARTICULAR LAW PROMPTS US TO ASK QUESTION TO GET AUTHORITATIVE LEGAL REPLY.

2. WE'RE RELUCTANT TO BOTHER DEPARTMENT WITH ALL THESE QUESTION BUT WE WOULD HOPE TO TIE UP ALL LOOSE ENDS WITH THIS MESSAGE.

3. FYI: WE HAVE CALCULATED COST OF SUNDAY PREMIUM PAY. TOTALS ARE: SHARED EQUAL \$7848; PROGRAM EQUAL \$12,404, KABUL HOSPITAL EQUAL \$4160; OR \$24,412 TO STATE'S ACCOUNT. WE WILL INCLUDE THAT ITEM IN FY-75 BUDGET SUBMISSIONS. (USIS TOTAL EQUAL \$4516). (USAID APPROXIMATELY EQUAL 47,500).

4. WOULD APPRECIATE TELEGRAPHIC REPLY.

5. MANY THANKS.
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